

**Title 12 – DEPARTMENT OF REVENUE
Division 10 – Director of Revenue
Chapter 6 – Motor Fuel Tax**

PROPOSED RULE

12 CSR 10-6.100 Motor Fuel Tax Exemption for Operators of Public Mass Transportation Service.

PURPOSE: Section 142.817, RSMo, exempts operators of public mass transportation service from motor fuel tax. This rule explains how the exemption is to be claimed.

(1) In general, fuel used to operate public mass transportation services is not subject to Missouri motor fuel tax. Fuel that is not subject to Missouri motor fuel tax is subject to Missouri State and local sales tax, unless otherwise exempted under Chapter 144, RSMo.

(2) Basic Application.

(A) Operators of public mass transportation services who purchase fuel on or after August 28, 2007, and paid the Missouri motor fuel tax may obtain a refund of the tax. The operator of the public mass transportation service must certify to the department, on a form prescribed by the director, that the motor fuel will be used exclusively in the operation of the mass transportation service.

1. The operator must submit the claim on a form prescribed by the department within one (1) year of the date of purchase or April 15th of the year following the purchase, whichever is later.

2. The refund will equal the motor fuel tax, less all applicable state and local sales taxes unless the entity is otherwise exempt from Missouri sales tax.

(B) Ultimate vendors may make bulk sales of motor fuel to the exempt public mass transportation service on or after August 28, 2007, without collecting the state motor fuel tax. The ultimate vendor that purchased the motor fuel and paid the Missouri motor fuel tax may obtain a refund if the ultimate vendor sold the motor fuel without charging the Missouri motor fuel tax.

1. Operators must furnish the ultimate vendor a Public Mass Transportation Operator Exemption Certificate in order to purchase the motor fuel without being charged the Missouri motor fuel tax. This form is available at the department's central office, or may be downloaded at

<http://www.dor.mo.gov/tax/business/fuel/forms/index.htm>

2. Any ultimate vendor who is a retailer, and not licensed as a supplier or distributor, must submit the claim on a form prescribed by the director within two (2) years of the date of purchase.

3. If the ultimate vendor is licensed as a Missouri supplier or distributor, the claim for refund must be submitted on a form prescribed by the director and must be filed within three (3) years of the date of purchase.

4. The ultimate vendor must collect and remit to the department any applicable state and local sales taxes at the rate in effect at the vendor's place of business

(3) Examples.

(A) A public mass transportation service operator has vehicles that operate on gasoline or gasohol. The operator goes to the pump to fuel its vehicles. The operator will purchase the gasoline or gasohol subject to all taxes and may apply for a refund of the state motor fuel tax.

(B) A public mass transportation service operator has vehicles that operate on diesel fuel. The operator may purchase clear diesel fuel subject to the state motor fuel tax and apply for a refund or if allowed under federal law, it may purchase dyed diesel fuel, which is exempt from state and federal fuel tax. It is required to complete and provide the ultimate vendor with an exemption certificate prior to filling any vehicles or ordering any dyed diesel fuel.

(C) A public mass transportation service operator has bulk storage facilities for the motor fuel used to fuel its vehicles. The ultimate vendor who delivers the motor fuel may sell the product without charging the motor fuel tax. The ultimate vendor would charge any applicable sales tax unless the operator is exempt from sales tax under state law. The ultimate vendor would then apply for a refund of the motor fuel tax it paid on the motor fuel but did not collect from the operator.

(D) A public mass transportation service operator has vehicles that operate on diesel fuel and meet the exemption requirements under federal law. Its routes include states other than Missouri, and the other state does not allow the use of dyed diesel fuel on public roadways. Even though Missouri and the federal government would allow the use of dyed diesel fuel, the operator must purchase and use clear fuel in the vehicles that cross into the neighboring state.

AUTHORITY: sections 142.818 and 142.824, RSMo 2000, section 136.035, RSMo, Supp. 2006, and TAFP CCS HCS SB 30, enacted by the 94th General Assembly, 2007. Emergency rule filed Aug. ____, 2007, effective Aug. 28, 2007, expires Feb. 23, 2008. Original rule filed Aug. ____, 2007.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: This proposed rule is estimated to cost private entities approximately twenty-four thousand eight hundred seventy dollars (\$24,870) in fiscal year 2008 and thirty-seven thousand two hundred seventy-nine dollars (\$37,279) in fiscal years after 2008 with that cost recurring annually over the life of the rule.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.